

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7681

MELVIN WAYNE BLANKENSHIP,

Petitioner - Appellant,

versus

ALTON BASKERVILLE, Warden, Powhatan
Correctional Center,

Respondent - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Jackson L. Kiser, Senior
District Judge. (CA-02-691-7)

Submitted: May 28, 2004

Decided: July 19, 2004

Before MOTZ, TRAXLER, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Melvin Wayne Blankenship, Appellant Pro Se. Kathleen B. Martin,
OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Melvin Wayne Blankenship seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2000) petition. The district court granted a certificate of appealability on the three issues raised by Blankenship on appeal: (1) whether the prosecution withheld exculpatory evidence relating to statements by Commonwealth witness, Kevin Cooke; (2) whether counsel was ineffective for not disclosing a conflict of interest; and (3) whether the district court erred in refusing to sever the trial of Blankenship and his brother.

This Court reviews de novo the district court's denial of habeas relief based on a state court record. Bell v. Ozmint, 332 F.3d 229, 233 (4th Cir. 2003), cert. denied, __ U.S. __, 124 S. Ct. 1155 (2004). Once a certificate of appealability has issued, habeas corpus relief may be granted under § 2254 only if a state court's decision on the merits of a claim for post-conviction relief "was contrary to, or involved an unreasonable application of, clearly established Federal law," 28 U.S.C. § 2254(d)(1), or "an unreasonable determination of the facts in light of the evidence presented in the State court proceeding," 28 U.S.C. § 2254(d)(2); Williams v. Taylor, 529 U.S. 362, 412-13 (2000) (discussing § 2254(d)(1)); Wilson v. Ozmint, 352 F.3d 847, 855 (4th Cir. 2003), amended on other grounds by 357 F.3d 461 (4th Cir. 2004), and petition for cert. filed, Apr. 15, 2004 (No. 03-9909).

We have independently reviewed the record in light of Blankenship's claims and conclude that the district court did not err in denying habeas relief. Accordingly, we affirm the judgment of the district court. While we grant Blankenship's motion for an extension of time to file a reply brief, we deny his motion to appoint counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED